

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

State of Minnesota, by Michael Campion,
its Commissioner of Public Safety,

Court File No. 0:08-cv-00603-DWF-AJB

Plaintiff,

v.

**MOTION TO INTERVENE AS
PLAINTIFFS**

CMI of Kentucky, Inc.,
A Kentucky Corporation,

Defendant

Robert J. Bergstrom, Craig A. Zenobian,
Shane M. Steffensen and Christopher D.
Jacobsen

Applicants

PLEASE TAKE NOTICE that Applicants Robert J. Bergstrom, Craig A. Zenobian, Shane M. Steffensen and Christopher D. Jacobsen moves the Court pursuant to Fed. R. Civ. P. 24 for leave to intervene as Plaintiffs in this action in order to assert the claims against Defendant set forth in Applicants' proposed Complaint, a copy of which is attached as Exhibit 1.

In support of this motion, Applicants state:

1. Pursuant to Fed. R. Civ. P. 24(a), Applicants are entitled to intervene as of right.

- A. Applicants have an interest in the subject of this suit as express third-party beneficiaries to the contract between Plaintiff and Defendant as Applicants have District Court Orders requiring the production of the Source Code to Defendant's Intoxilyzer 5000 but which Defendant has refused to provide to Applicants despite being third party beneficiaries to the Contract between Plaintiff and Defendant as specifically and particularly set forth in the attached Complaint.
- B. Applicants are so situated that disposition of this action without this intervention will, or may as a practical matter, impair or destroy Applicants' ability to protect that interest.
- C. Applicants' interest cannot be adequately represented by existing parties. The Plaintiff is adverse to Applicants in criminal and civil Implied Consent proceedings involving the Intoxilyzer 5000 and has taken the position in the Minnesota State Courts that Plaintiff did not obtain ownership or control of the Source Code and has taken the position that the Source Code is not subject to production to Applicants and persons similarly situated to Applicants. Thus, Plaintiff stands to gain just as much by losing this case as it would from winning.

RAMSAY & ASSOCIATES, P.L.L.C.

Dated: June 6, 2008

/s/ Charles A. Ramsay

Charles A. Ramsay ID No. 260277
450 Rosedale Towers
1700 West Highway 36
Roseville, Minnesota 55113
651-604-0000

GORES LAW OFFICE

Dated: June 6, 2008

/s/ John J. Gores

John J. Gores ID No. 228928
7091 Highway 65 NE, Suite 201
Fridley, Minnesota 55432
763-571-4777

Attorneys for Applicants